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C O N F I D E N T I A L SECTION 01 OF 02 RANGOON 000631

SIPDIS

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TAGS: [EFIN](#) [PGOV](#) [SNAR](#) [BM](#)

SUBJECT: MONEY LAUNDERING: FATF COMES TO BURMA

REF: A. RANGOON 565 AND PREVIOUS

[B](#). 03 RANGOON 1595

[C](#). 03 RANGOON 859

[D](#). 03 RANGOON 30

Classified By: COM CARMEN MARTINEZ FOR REASONS 1.4 (B,D)

[1](#). (C) Summary: Anti-money laundering legislation and supervision were the topics of three days of discussions between FATF and the Burmese government. Though the GOB has made much progress on paper, concerns remain over some troubling details and prospects for proper enforcement. As FATF considers Burma's status, we urge a tough line on lifting countermeasures. However, while pressuring the country's policymakers we should be finding creative ways to encourage Burma's law enforcers who, though badly outmatched, demonstrate the will to take on money laundering activities. End summary.

Burma on the FATF Hot Seat

[2](#). (U) Based on Burma's failure to adequately address 15 of 25 specific Financial Action Task Force (FATF) areas of concern, FATF declared Burma a "Non-Cooperative Country or Territory" in 2001. (Note: the number of failing grades has subsequently been reduced to nine.) In 2003, because of a lack of required anti-money laundering (AML) regulations and a mutual legal assistance (MLA) law, the FATF called on its members to impose additional countermeasures against Burma. Since then, the GOB has issued both the regulations and the MLA law.

[3](#). (SBU) During an unprecedented May 10-12 closed-door meeting, GOB finance and legal officials explained Burma's new AML regulations and MLA law and answered tough questions from a visiting FATF delegation. An official of Japan's financial intelligence unit co-chaired the sessions, and delegations from the U.S. Treasury Department, the Australian Federal Police, and UNODC also attended. Encouragingly, the GOB sent knowledgeable working-level officials to the meetings. They were forthcoming and unusually willing and eager to pass on whatever documentation and information they could. With a few important exceptions, the GOB delegates responded frankly, with inadequate or vague answers seemingly due to a lack of technical knowledge or the authority to respond authoritatively.

Several Problem Areas Remain

[4](#). (C) Though the FATF delegation acknowledged the GOB's efforts thus far, there remain several technical or systemic problems. Among these are:

- (1) a complete failure thus far by banks and real estate brokers to submit any suspicious transaction reports (although several hundred large-cash transaction reports have so far been submitted to anti-money laundering authorities);
- (2) an unusually high threshold limit for bank reporting (100 million kyat -- roughly US\$117,000);
- (3) zero progress thus far in investigating two private banks (Asia Wealth and Myanmar Mayflower) known for their ties to narcotics-related money laundering (ref B);
- (4) inadequate measures by the Central Bank to ensure criminals do not own banks;
- (5) the inability to close a loophole that allows unsupervised "non-bank financial institutions" to operate legally and freely (refs C and D);
- (6) the failure to include "fraud" as a predicate offense for anti-money laundering action. (Note: the GOB argued that in Burma fraud monetary values were too small to merit money laundering investigations. The failure of last year's multi-million dollar pyramid schemes (ref D) contradicts this);
- (7) a troubling clause in the new mutual legal assistance law that allows "the Government" to overrule, without giving justification, decisions made by the body established to adjudicate assistance requests; and,
- (8) the questionable legal status of the MLA. While the GOB claims that this legislation is "in force," it would appear that further implementing regulations are needed.

15. (C) An Embassy-sponsored meeting for the visiting Treasury officials with local bankers, economists, realtors, and economic journalists illuminated the mismatch between what GOB financial authorities say, what the law requires, and what actually happens. Inadequate resources, a lack of knowledge, corruption, and rampant tax evasion all conspire to make oversight of banks and real estate transactions very difficult. In addition, an interesting theme emerged that in Burma and its informal economy money laundering is systemic and omnipresent, not a fringe behavior that can be easily monitored and eradicated. One very intelligent and internationally savvy economist present even argued that in the short run money laundering might be a good thing since there are no other sources of investment capital in Burma at the moment.

Japanese Push for "A Way Out"

16. (C) Unfortunately, the FATF co-chair from Japan and the GOJ delegation seemed more interested in helping Burma "find a way out of the situation" than dispassionately assessing the regime's efforts thus far. This position is far closer to that presented by the Japanese Embassy in Rangoon than to that presented in recent FATF plenary sessions. Though the Australians had representatives at the meetings, he did not make any interventions or pose any questions.

Comment: Next Steps Will be Crucial

17. (C) FATF's Asia Review Group will meet Burma on June 13 in Korea. The FATF plenary will also meet in Paris from June 28 to July 2. From our standpoint, it's important to recognize Burma's progress and response to international pressure. However, as for lifting countermeasures, FATF should hold Burma to an exacting standard since it is evident that the SPDC will call the tune on Burma's AML efforts regardless of what's written on paper. A strong case for continued countermeasures can be made on existing deficiencies in the mutual legal assistance framework. Likewise, as the only multilateral sanction in place on Burma, the FATF countermeasures should be held in place as long as is justifiable. This being said, we urge again (ref A) consideration of some kind of USG information sharing or indirect capacity building to assist those at the GOB working level who honestly want to enforce the new laws. End comment.

18. (U) This cable has been cleared with the Treasury delegation.
Martinez